



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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May 30, 2014

VIA INTERNET

CYNTHIA BRIDGES
Executive Director

Dear Interested Party:

The Audit Manual (AM) is a guide for the Board of Equalization (BOE) staff in administering tax and fee programs. It is available to the public and can be accessed from the BOE web page at <http://www.boe.ca.gov/sutax/staxmanuals.htm>.

The Sales and Use Tax Department (SUTD) is proposing to revise AM Chapter 2, *Preparation of Field Audit Reports*, section 0204.16, *Dual Determinations*. The revision incorporates and updates current audit policies and procedures. The revision material is provided on the following pages for the convenience of interested parties who may wish to submit comments or suggestions. Please feel free to publish this information on your website or otherwise distribute it to your associates, members, or other persons.

If you have any comments or suggestions related to the proposed AM revision, you may contact the BOE at AM.RevisionSuggestions@boe.ca.gov. Your comments or suggestions must be received by BOE no later than **August 5, 2014** in order to be considered by staff. Thank you for your consideration.

Sincerely,

Susanne Buehler, Chief
Tax Policy Division
Sales and Use Tax Department

DUAL DETERMINATIONS

0204.16

Dual determinations may be issued against a corporation and its corporate officers, shareholders or other responsible persons or entities for any periods which have not expired under the provisions of RTC section 6487, Limitations, deficiency determinations and similar sections for other tax laws. When billings or liens result in an extension of the statute of limitations for a corporation, the statute is not extended for issuing a dual determination against an officer or other person in control. Accordingly, separate waivers of the statute of limitations are obtained from those individuals determined to be responsible for the tax liability in accordance with RTC section 6488, Waiver. If waivers cannot be obtained from the individuals, separate determinations can be issued for the expiring quarters against those individuals. However, RTC section 6488 only applies to determinations issued pursuant to RTC section 6487. There is no similar provision for the waiver of statute of limitation for determinations issued pursuant to RTC section 6829, Personal liability of corporate officer.

Dual determinations may be issued as follows:

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5. Responsible Person Liability (RTC section 6829 Dual) ~~(Dual with corporation, partnership, limited liability partnership or limited liability company)~~ — Any officer, member, manager, partner, or other person (responsible person) having control or supervision of, or who is charged with the responsibility for the filing of returns or the payment of tax, or who is under a duty to act for a corporation, partnership, limited liability partnership, or limited liability company (the business) in complying with any requirement of the taxation laws, shall become personally liable for any unpaid taxes, interest and penalties that became due during the period that the responsible person had the control, supervision, responsibility or duty to act for the business if the responsible person willfully fails to pay or to cause to be paid any taxes due from the business upon termination, dissolution, or abandonment of the business. (See RTC section 6829 (a)–(b) and Regulation 1702.5.)

The Centralized Collection Section (CCS) is responsible for the issuance of dual determinations pursuant to RTC section 6829 (see CPPM sections 764.080 – 764.180). However, the best time to gather evidence to support personal liability pursuant to RTC section 6829 is while a corporation, partnership, limited partnership, limited liability partnership or limited liability company (entity) is active **or** during an audit of the entities' records.